

Department of Commerce and Insurance

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Paper copies of the News-Journal are being phased out. Please subscribe to the e-mailed edition at: <http://regbdlst.state.tn.us> in order to insure that you receive the News-Journal and other updated information from the Commission.

Bobbi Gillis Ends Terms As Commissioner

Bobbi Gillis served almost 12 years as a Tennessee Real Estate Commissioner. She initially filled a term when a West Tennessee position became vacant and was then appointed to fill two additional terms. Gillis has been in the real estate business for more than 30 years and is currently the principal broker and vice president of FaxonGillis Homes, Inc. She and her husband W. Jerry Gillis live

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Carol Tate Appointed Commissioner By Governor Bredezen



Commissioner Carol Tate

Carol Tate of Memphis attended her first TREC meeting as a Commissioner in November. Tate has more than 30 years experience as a real estate professional and is the principal broker of Tate Realty and Construction, Inc., a family business. Kenneth Tate, Carol's husband, is a broker who handles the construction side of the business. Daughter Felicia is a recent graduate of the University of Tennessee in Martin, a brand new real estate licensee and the Executive Director of Housing Counseling for the Tate's HUD approved firm. Son Kody, a senior at UT Martin, and his wife Christian are the parents of Carol's three young grandchildren.

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Licensees Obtain Education Credit While Attending the September Commission Meeting

Both days of the September Commission meeting were attended by six licensees who received more than education credit added to their licensure files. The meeting was filled with TREC business including applicant conferences, preliminary requests for licensure, review of complaints filed against licensees and discussions concerning education, rules, staggering of license expiry dates, reciprocity and more. Rob Arnett of Nashville has been practicing real estate for less than

a year and stated "I am glad I attended this meeting early in my real estate career. I have certainly learned that the Commission will discipline licensees who do not adhere to the Broker's Act and rules." All the attendees addressed the Commission prior to the meeting being adjourned and all indicated they learned a great deal about regulation and would share their knowledge with their broker and

cont. page 4

New and Amended Rules Effective for TREC

The Tennessee Real Estate Commission's proposed rules which were initiated in late 2005 became effective October 14, 2006. Following is a synopsis of the changes. In order to view the entire set of rule changes/additions, please go to: <http://state.tn.us/commerce/boards/trec/pdf/rulemakingNotice.pdf>

Rule 1260-1-.04 LICENSES, paragraph 1, was changed by adding the phrase "is covered by an errors and omissions insurance policy" to clarify that licensees must be covered by errors and omissions insurance prior to engaging in the practice of real estate.

Paragraph 2 of Rules 1260-2-.01 SUPERVISION OF AFFILIATE BROKERS was changed to allow the distance between a licensee's home and the firm to be calculated by straight line calculation as opposed to using actual road travel mileage. Another change to this paragraph defines property managers and exempts them from the requirement to live within 50 miles of the firm with which they are affiliated.

Rule 1260-2-.03 OFFICES was changed in paragraph 1 to indicate the sign on the outside of a real estate firm must contain the name of the firm as registered with the Commission and a new section (b) was added to paragraph (3) relating to Model Homes and Modular Units and appears in its entirety below:

- (b) Model Homes and Modular Units. A model home may be utilized in a subdivision or on a commercial lot and a modular unit may be utilized in subdivisions which are under construction for purposes of soliciting business and will not be required to be licensed as a branch office as long as the model home or modular unit meets the following requirements:
- (1) The model home or modular unit location and/or telephone number is only advertised in conjunction with advertising

- the main firm office and such advertising complies with the statutes, rules and regulations of the Commission;
- (2) The model home or modular unit does not have a mail drop;
- (3) The model home or modular unit is not the sole sales office for the firm;
- (4) The model home or modular unit is not utilized to allow unlicensed activity by individuals in performing any of the acts requiring licensure under T.C.A. §62-13-101, et seq.; and
- (5) The principal broker of the main firm office shall adequately supervise licensees operating from model homes or modular units as required by T.C.A. §62-13-312 and any rules promulgated thereunder.

Rule 1260-2-.08 OFFERS TO PURCHASE was amended by adding a sentence which indicates when an offer is rejected the licensee shall request the seller to note the rejection on the offer and return it to the offeror or offeror's agent.

Rule 1260-2-.12 ADVERTISING was amended in paragraph 2 to emphasize the advertisement must fully indicate the licensee is in the real estate business, the advertisement "shall" contain both the firm name and firm telephone number and that no signs may be posted in any location without written authorization from the owner of the advertised property or the owner's agent.

Rule 1260-2-.36 EXCLUSIVE BUYER REPRESENTATION AGREEMENTS was added and provides the same guidance as a previous Commission policy. The new rule reads as follows:

EXCLUSIVE BUYER REPRESENTATION AGREEMENTS. An exclusive buyer representation agreement is an agreement in which a licensee is engaged to represent a buyer in the purchase of a property to the exclusion of all other licensees. When entering

— DISCIPLINARY ACTIONS —

AUGUST 2006

BETTY DIANE ARNOLD
Lic. No. AF232610
Shelbyville, TN

Ms. Arnold was assessed a civil penalty of \$750.00 for failure to exercise reasonable skill and care.

J. P. RICHARDSON & SONS REALTY
Lic. No. FM6589
Fayetteville, TN

The firm was assessed a civil penalty of \$1000.00 for failure to disclose personal interest.

JAMES T. McCARTHY
Lic. No. PB261521
Memphis, TN

Mr. McCarthy was assessed a civil penalty of \$1000.00 for failure to timely remit monies belonging to others.

JAMES C. McSPADDEN
Lic. No. PB215238
Knoxville, TN

Mr. McSpadden was assessed a civil penalty of \$2000.00 for improper conduct and failure to timely remit monies belonging to others.

J. THOMAS PATTERSON, III
Lic. No. PB10598
Nashville, TN

Mr. Patterson was assessed a civil penalty of \$250.00 for failure to adequately supervise affiliates.

BRADY M. SMITH
Lic. No. AF280827
Nashville, TN

Mr. Smith was assessed a civil penalty of \$250.00 for failure to timely complete administrative measures.

KATHRYN WHITWELL
Lic. No. BR204313
Columbia, TN

Ms. Whitwell was assessed a civil penalty of \$1500.00 for failure to exercise reasonable skill and care.

SEPTEMBER 2006

CARTER & CO. REALTY
Lic. No. FM256657

Kingsport, TN

The firm was assessed a civil penalty of \$750.00 for failure to notify TREC of a change of firm address.

CENTURY 21 HOWE REALTY & AUCTION
Lic. No. FM59566
Sweetwater, TN

The firm was assessed a civil penalty of \$500.00 for an advertising violation.

CHERRY & ASSOC. COMMERCIAL REAL ESTATE SERVICES
Lic. No. FM254672
Nashville, TN

The firm was assessed a civil penalty of \$750.00 for failure to notify TREC of a change of firm address.

COMMERCIAL REALTY ADVISORS, INC.
Lic. No. FM257246
Nashville, TN

The firm was assessed a civil penalty of \$750.00 for failure to notify TREC of a change in firm address.

WALTER C. DUNN
Lic. No. PB230411
Memphis, TN

Mr. Dunn was assessed a civil penalty of \$1000.00 for failure to timely submit an offer.

RAND GRAY, JR.
Lic. No. AF226271
Munford, TN

Mr. Gray was assessed a civil penalty of \$1000.00 for conduct which constitutes improper, fraudulent or dishonest dealings.

ROBERT T. HARRIS
Lic. No. AF281443
Clarksville, TN

Mr. Harris was assessed a civil penalty of \$1000.00 for failure to exercise reasonable skill and care.

ALBERT G. WISE
Lic. No. AF270231
Memphis, TN

Mr. Wise was assessed a civil penalty of \$1000.00 for conduct which constitutes improper or dishonest dealings.

Bobbi Gillis...cont.

in Memphis and have three daughters, two sons-in-law, and two young grandchildren.

Gillis served as Vice Chairman of the Commission from 1996 - 1998 and as Chair from 1998-2000. She organized

and conducted an Education Forum in 1999 which was attended by real estate educators from across the state to discuss the future of real estate education for Tennessee licensees. Information from that forum resulted in changes concerning pre-license education and distance learning education. She was also instrumental in starting the Bill Tune Award for Excellence in Education.

Gillis has always been active in the Memphis area real estate industry and has served as President of the Memphis Area Association of REALTORS and on the Board of Directors of the Tennessee Association of REALTORS. Bobbi and Jerry have become ardent boaters. The Commissioners and TREC staff members wish them success, both in business and pleasure.

Commission Votes to Suspend Rule 1260-5-.12(3)(c) During the Staggering of License Expiry Dates

Previous TREC communications have indicated that continuing education will not be required to renew a real estate license which has been awarded for less than two (2) years. This was determined so that affiliates, during the process of staggering license expiry dates, who held licenses for 6 to 18 months would not be required to complete continuing education during the shortened licensing period. In order to encourage licensees to complete education during the staggering process, the Commission at its September 2006 meeting voted to suspend the rule which prohibits continuing education taken in one licensing period to be used for a future licensing period. The Rule referenced is 1260-5-.12(3)(c). This was accomplished in order to allow licensees who complete education during the staggering of license expiration dates (when no education is required) to have that education "count" for their next two year licensing period.

This translates to: an affiliate broker who takes education during the period when continuing education is not required can "roll over" that education to their next license period which is 2 years in duration. This suspension is only for the license expiry date staggering process and when a license is awarded for less than two full years.

Education Credit...cont.

co-workers.

Lee Ann Collins drove from Lewisburg to learn what kinds of business were conducted by the Commissioners. After the meeting ended she said, "this was one of the most educational and informative classes I have experienced. I feel it is a must for seasoned agents and new agents alike."

If you would like to attend a Commission meeting and obtain education credit, please contact Kathy Riggs, Ph.D., Director of Education, at 615-253-1178 or kathy.riggs@state.tn.us



Attendees at Commission Meeting from left to right: Deleda Green, Eddie Oliver, Wendal Miller, Andy Collins, Chairman Charles Haynes, Rob Arnett, Lee Ann Collins and Bill Garrett.

Commissioners Attend Annual ARELLO Conference

By: Bear Stephenson, TREC Vice Chairman

The 2006 annual conference of ARELLO in San Antonio in September brought together real estate professionals from around the world to learn more about regulatory issues, real estate trends affecting regulators, education, and case law for regulators.

ARELLO, the Association of Real Estate License Law Officials, was founded 75 years ago to allow exchange of information and encourage cooperation among regulators and policy makers in the area of real property. The association, which promotes excellence in real estate regulation, serves official government agencies and other organizations around the world that issue real estate licenses or registrations, regulate real estate practice, and enforce real estate law. Charles Haynes, Chairman of the Tennessee Real Estate Commission, and Bear Stephenson, the Commission's Vice-Chairman, were Tennessee's two representatives

at the conference among about 250 regular attendees.

Discussions groups on regulatory issues at the conference focused on "Regulatory Agencies Under Fire: Independence, Fairness and Effectiveness," "Continuing Education, Mandatory or Optional?" "Innovative Trends in Licensing," and "Educating Real Estate Licensees on Home Inspections." The five-day conference included the first ARELLO Commissioner College, teaching the basics of administrative law for commission and board members. Regulatory Roundtable sessions focused on timeshares, auctions and community associations.

ARELLO publishes the Digest of Real Estate License Laws and Current Issues and the International Directory of Real Estate Regulators and Organizations, as well as an annual Case Law Report.

New and Amended Rules...cont.

into any such agreement a licensee must advise and confirm in writing to such buyer the following:

- (1) that the buyer should make all arrangements to view or inspect a property through the licensee and should not directly contact other licensees;
- (2) that the buyer should immediately inform any other licensee the buyer may come into contact with (for example, at an open house) that he or she is represented by the licensee; and
- (3) whether the buyer will owe a commission in the event the buyer purchases a property without the assistance of the licensee through another licensee or directly from an owner.

Rule 1260-5-12 AFFILIATE BROKERS - addresses continuing education for affiliate brokers to make the language fit the current affiliate broker continuing education requirements and was changed to remove irrelevant language.

Carol Tate...cont.

Tate travels around the country a great deal with her position as National Education Director for the National Association of Real Estate Brokers. She states "education is my passion" and

further states "staying on top of any profession requires constant education and exposure to new information". Carol has attained a number of real estate designations including GRI, CRB, and ABR.

Tate is a Life Member of the

Million Dollar Sales Clubs of both the Memphis Area Association of REALTORS and the National Association of Real Estate Brokers. The Commission welcomes Carol as she begins her five year term as Commissioner.

TENNESSEE HOME INSPECTOR LICENSING

By: Carol Kennedy

I would like to thank the Tennessee Real Estate Commission for giving me the opportunity to include an article in their newsletter regarding the licensing of Tennessee Home Inspectors.

As many of you are aware, starting July 1, 2006 the State of Tennessee required all individuals who were performing or planning on performing home inspections to obtain a state license. There have been concerns raised as to home inspectors continuing to perform inspections through a Realtor, or on their own without having obtained a license. This may be due to the individual's misinterpretation of the law.

Tennessee Code Annotated (TCA) 62-6-304 provides that "it is unlawful for any person, directly or indirectly, to engage in or conduct, or to advertise or claim to be engaging in or conducting the business, or acting in the capacity of a home inspector as defined in this chapter, within this state, without first obtaining a home inspector license as provided in this part." PC 959 (to be codified as TCA 62-6-305(b)) authorizes the Commissioner of Commerce and Insurance to issue a license to individuals who have been performing home inspections for 3 years, have performed at least 150 home inspections, and carry the appropriate insurance without fulfilling the other requirements. **This 180 day period is not a grace period for inspectors to continue performing home inspections without licensure.** If an individual is not licensed and currently performing home inspections, whether on their own, through a Realtor or Real Estate Agency,

they are violating the law and may face legal action.

A copy of our law/rules may be obtained through the State of Tennessee Home Inspector Website: www.state.tn.us/commerce/boards/hic/index.html

If you have any questions or concerns, please do not hesitate to contact Carol Kennedy, Administrative Director, Home Inspector Licensing Program 615-253-7143.

Ms. Kennedy is the Administrative Director of the Tennessee Home Inspector Licensing Program.

"The Tennessee Department of Commerce and Insurance is committed to principles of equal opportunity, equal access, and affirmative action." Contact the EEO Coordinator or ADA Coordinator (615) 741-1328, for TDD (615) 741-6276



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Department of Commerce and Insurance

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